

To: Accountability in Higher Education and Access through Demand-driven Workforce Pell (AHEAD) Committee

From: Tamar Hoffman and Zoe Kemmerling, representing legal assistance organizations that represent students and borrowers, consumer advocates, and civil rights groups that represent students

Re: Update to proposed language on the requirement that programs be in existence for a year

Date: December 9, 2025

Below, we propose an update to the Department's proposed language in 34 CFR § 690.94, which relates to the requirement that programs must have been in existence for one year.

Background:

H.R.1 provides that a program is an eligible program for purposes of the Workforce Pell Grant only if it has been offered by an eligible institution for one year. The law states, "the program has been offered by the eligible institution for not less than 1 year prior to the date on which the Secretary makes a determination under this clause."

However, the definition of "in existence for one year" in the proposed regulations raises questions about how similar a program needs to have been from the one previously offered, as well as what a brand-new program would need to demonstrate. Institutions should be required not only to show that they have operated within the same number of weeks and hours/credits as they will be while receiving Pell, and that they have met the state's requirements for at least a year (as already proposed by the Department), but also that they have been actively enrolling and instructing students within the same modality (i.e., online, hybrid, or in-person) for at least a year.

Recommendation

The Department should amend the language to ensure that programs have existed with the same key features as when they are presented for approval. Specifically, one area missing from the proposed regulations is the delivery of the program. A program that was in-person previously should not become a hybrid or online program and still be considered the same program. A change in the mode of delivery could have large effects on the outcomes of students, so it is critical that programs seeking approval demonstrate that it will be the same as the one provided for the year prior. In addition, a clarification that the program has actively been providing instruction to students during this period would better fit the intent of the statute.

Amended Language:

(a) After the Governor determines that the program meets the

requirements under 34 CFR § 690.93, the institution must submit to the Secretary documentation that-

(1) The program has been in existence for at least one year from the date that the Governor determines that the program met the regulatory requirements. The Secretary considers a program to have been in existence for at least one year if the institution has continuously enrolled and instructed students in the program during the 12 months preceding the date on which the institution applied for eligibility for that program, and the eligible workforce program has met the conditions under 34 CFR § 690.92(a) and (b) and 34 CFR § 690.93(a), and offered the program using the same modality, for at least that 12-month period~~one year~~;

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